

H. B. No. 475, A bill to be entitled "An Act amending Section 28 of Chapter 212, Acts of the Regular Session, Fortieth Legislature, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

PATTON, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Penitentiaries, to whom was referred

S. B. No. 528, A bill to be entitled "An Act authorizing the Texas Prison Board to exchange by proper deeds of conveyance 1.39 acres of land belonging to the State of Texas, a part of the Texas Prison System, situated in Brazoria County, Texas, for a 1.11 acre tract, belonging to Mrs. Kate Palmer, a feme sole, also situated in Brazoria County, Texas, and adjoining lands belonging to the State of Texas, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

PATTON, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Penitentiaries, to whom was referred

S. B. No. 115, A bill to be entitled "An Act amending Chapter 212, Section 19, page 298, of the Acts of the Regular Session of the Fortieth Legislature, 1927, relating to the removal of prisoners to the penitentiary; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

PATTON, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 552, A bill to be entitled

"An Act conferring additional powers on the boards of trustees of independent school districts situated in counties having a population according to the latest Federal census of more than 22,000 and less than 22,100, by providing that the boards of trustees of such districts may issue refunding warrants in lieu of eligible vouchers as defined herein, issued prior to January 1, 1932, prescribing the duties of the boards of trustees in reference to the issuance of said refunding warrants, expressly authorizing and validating said outstanding eligible vouchers and refunding warrants issued in lieu thereof, prescribing the duties of such board of trustees in reference to the levying and collecting taxes to pay the principal and interest of said refunding warrants, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

NEAL, Chairman.

SEVENTY-SECOND DAY.

Senate Chamber,
Austin, Texas,
May 10, 1931.

The Senate met at 11:45 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
Cousins.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

Hopkins.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dis-

pensed with on motion of Senator Woodward.

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By unanimous consent, the rule relating to the introduction of general bills after the first 52 days of the session was suspended and consent was granted to introduce the following bills:

By Senator Holbrook:

S. B. No. 553, A bill to be entitled "An Act making an emergency appropriation of \$1,500.00 for postage to be used by the State Department of Education during the remainder of the fiscal year ending August 31, 1933, and declaring an emergency."

Read and referred to Committee on Finance.

By Senator Small:

S. B. No. 554, A bill to be entitled "An Act to amend Article 1302 of Title 32 of the Revised Civil Statutes of the State of Texas of 1925 relating to the purposes for which private corporations may be formed by adding thereto a section to be known as Section 95 so as to provide that corporations may be formed for the purpose of engaging in the business of exterminating moths and termites with power to acquire and own all property necessary to conduct such business, and declaring an emergency."

Read and referred to Committee on State Affairs.

By Senator Moore:

S. B. No. 555, A bill to be entitled "An Act to amend Revised Civil Statutes of Texas, Chapter 1, Title 16, Article 356, to provide for the Commissioner of Banking to call for statements of conditions of all banks organized and operating under this Chapter, for statements of its assets and liabilities not less than twice a year; providing for the Banking Commissioner to call upon the banks organized under this Chapter for a complete audit made by public accountants, the publication of same, and the promulgation by the State Commissioner of Banking of a list of qualified public accountants to be acceptable to make such

audit; providing for cost of such statement or audit; providing a penalty."

Read and referred to Committee on Banks and Banking.

Point of Order.

Senator Purl sent up the the following point of order:

Mr. President:

I raise the following point of order:

You have heretofore ruled, when points of order have been made that matters referred to a committee but that said matters were brought to the Senate on a floor report, that the Chair could not go behind the committee report.

This communication is addressed to you in advance of the report concerning amending the rules for which a floor report will be offered, and to advise you that said resolution was not considered by the committee, but that it was brought out on a floor report.

I raise the point of order in advance of filing this report that said report cannot be considered because it was referred to a committee and was not acted upon by the committee as such, but was brought out on a floor report. Said proposed amendment has to do with limiting debate on the floor of the Senate.

PURL.

The point of order was read.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order.

Motion to Re-commit.

Senator Purl moved to re-commit S. S. R. No. 108 to the Committee on Rules.

House Bills Referred.

H. B. No. 464 referred to Committee on State Departments and Institutions.

H. B. No. 329 referred to Committee on Public Health.

Recess.

On motion of Senator Patton, the Senate, at 12:01 o'clock p. m., recessed until 2 o'clock p. m.

After Recess.

The Senate met at 2 o'clock p. m., pursuant to recess, and was

called to order by Lieutenant Governor Edgar E. Witt.

Bills Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills and resolutions:

H. B. No. 133. S. C. R. No. 62.
H. B. No. 136. H. C. R. No. 71.
H. B. No. 710.

Message From the House.

Hall of the House of Representatives,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution and bill:

S. C. R. No. 62, Requesting the Governor to return House Joint Resolution No. 62 to the Senate for correction.

H. B. No. 717, A bill to be entitled "An Act to amend Articles 2592 and 2593-a, Revised Civil Statutes of Texas, 1925, as amended by Chapter 42, Section 1, General Laws of the Regular Session, Forty-second Legislature, page 63, so as to permit expenditure of a part of the University Available Fund for the salaries of officers, teachers and employees, and for general maintenance of the University of Texas and the Agricultural and Mechanical College, same to be in addition to the purposes for which expenditure of said fund has been heretofore authorized, and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Messages from the Governor.

Executive Department,
Austin, Texas, May 9, 1933.
To the Forty-third Legislature:

I herewith transmit to you copy of a letter written by Honorable Moore Lynn, State Auditor, to which is attached a concurrent resolution suggested by him asking for the appropriation of \$3,000.00 out of \$40,000.00 heretofore appropriated for the State Auditor's office for the fiscal years beginning September 1,

1931 and 1932, respectively; the \$3,000.00 to be used for making an audit of the investments and securities held for the benefit of the permanent school funds of the State of Texas and any and all transactions in said fund.

Respectfully submitted,

MIRIAM A. FERGUSON,
Governor of Texas.

State Auditor and Efficiency Expert,
Austin, Texas, May 8, 1933.

Hon. Miriam A. Ferguson, Governor
the State of Texas.

Dear Mrs. Ferguson:

I am in receipt of a letter of May 3rd, from your Secretary, reading as follows:

"At the direction of the Governor I enclose herewith a letter from Honorable R. S. Bowers, Member of the State Board of Education, asking for an audit of the State Permanent School Fund, and she will appreciate your furnishing this report to her at your earliest convenience and oblige."

Attached to the letter is a letter of May 1st, from Hon. R. S. Bowers, Caldwell, Texas, reading as follows:

"The State Board of Education passed a resolution, upon my motion, that the Governor have the State Auditor make a complete audit of the State Permanent School Fund. The State Superintendent has the motion, and has no doubt brought it to the Governor, if not it will be forthcoming.

"What we want is that the Auditor make a complete audit of these funds, showing everything, in detail, as to when the bonds were bought, from whom bought, and the parties interested, the nature of the bonds, and the security, and the condition of the payments and delinquents, etc., with his judgment on the value of each bond issue owned, and suggestions as to what should be done to collect or improve the security, etc.

"This is about the most important fund, and I hear it talked that the State Permanent School fund owns many thousands of dollars worth of bonds, which are worthless, and so let's get a line on this business and see what can be done.

"If the State Superintendent has not reported to you, please call for

the resolution, and get things busy. You know Judge Morrison and myself talked to you about it Friday." (P. S.) "It was passed unanimously."

I feel that it is very important that this audit should be made, and that it should be made as expeditiously as possible. The general appropriation for our office has been drawn on so heavily in recent months that we are without funds sufficient to meet this new and unexpected demand.

The Forty-second Legislature appropriated \$40,000 to the State Auditor's office for the current fiscal year for the purpose of auditing oil royalties accruing to the Permanent School Fund, the Permanent University Fund, and other funds of the State. It appears that at least \$3,000 of this appropriation will not be used in such audits. In order that we may make the audit of the Permanent School Fund in the manner suggested by the Governor, and in order that we may complete the audit as promptly as possible, it is hereby requested that the Legislature authorize the State Auditor to use not in excess of \$3,000 of the appropriation already made for auditing oil royalties for the purpose of auditing the investments of, and all transactions in, the Permanent School Fund.

A suggested form of concurrent resolution is attached hereto. I shall greatly appreciate your transmitting this request to the two houses of the Legislature, if it meets with your approval.

Yours truly,

MOORE LYNN, State Auditor.

Read and referred to Committee on Finance.

Executive Department,
Austin, Texas, May 10, 1933.
Hon. Bob Barker, Secretary of the Senate.

Pursuant to Senate Concurrent Resolution No. 62, I am returning herewith House Joint Resolution No. 14.

Respectfully,
MIRIAM A. FERGUSON,
Governor.

Nominations for Notaries Public submitted and referred to Committee on Governor's Nominations.

Senate Bill No. 553.

Senator Holbrook asked to take up S. B. No. 553.

Senator Collie raised the point of order that the bill could not be taken up while House bills were pending, this being House bill day.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order.

Motion to Re-commit.

The question recurred upon the motion to re-commit S. S. R. No. 108.

Senator DeBerry raised the point of order that the committee report must lie over one day.

The Chair, Lieutenant Governor Edgar E. Witt, held that this rule would not prevent the re-committing of the resolution.

Senator Purl withdrew the motion to re-commit.

The resolution failed to be adopted by the following vote:

Yeas—16.

Blackert.	Parr.
Cousins.	Rawlings.
Duggan.	Redditt.
Fellbaum.	Russek.
Holbrook.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Pace.	Woodul.

Nays—14.

Beck.	Oneal.
Collie.	Patton.
DeBerry.	Poage.
Greer.	Purl.
Moore.	Regan.
Murphy.	Woodruff.
Neal.	Woodward.

Absent—Excused.

Hopkins.

(Two-thirds vote required.)

Motion to Introduce Bill.

Senator Cousins asked unanimous consent to introduce a bill relative to congressional redistricting.

Objection was heard.

Senator Cousins moved to suspend the rule and introduce the bill. The motion was lost by the following vote:

Yeas—24.

Beck.	Pace.
Cousins.	Parr.
DeBerry.	Patton.
Duggan.	Poage.
Fellbaum.	Purl.
Greer.	Rawlings.
Holbrook.	Redditt.
Hornsby.	Regan.
Martin.	Sanderford.
Moore.	Stone.
Murphy.	Woodul.
Oneal.	Woodward.

Nays—6.

Blackert.	Russek.
Collie.	Small.
Neal.	Woodruff.

Absent—Excused.

Hopkins.

(25 votes required.)

Senator Small moved to reconsider the vote and spread the motion on the Journal.

Pages Excused.

On motion of Senator Woodul, the pages were excused at 4 o'clock p. m., to attend a show.

Motion to Reconsider.

Senator Poage called up from the Journal the motion to reconsider the vote by which the Senate refused to permit the introduction of Senator Cousins' bill. The motion prevailed.

Senator Cousins withdrew the motion to introduce the bill.

S. C. R. No. 65.

Senator Sanderford sent up the following resolution:

Whereas, The Legislature of this State in the general appropriation act for State departments, Chapter 286, Acts Regular Session Forty-second Legislature, as amended by Chapter 8, Second Called Session Forty-second Legislature, appropriated the sum of forty thousand (\$40,000.00) dollars for each of the fiscal years beginning September 1, 1931, and September 1, 1932, respectively, to the State Auditor's office to be expended by the State Auditor upon the approval of the Governor in auditing the oil and gas royalties that have accrued and were and are accruing to the permanent school

fund, the permanent University fund and to other funds of the State; and

Whereas, It is the sense of this Legislature that it is desirable that an audit should likewise be made of the investments and securities of the permanent school fund of the State; and

Whereas, An audit of said investments and securities can be made in connection with the auditing of the oil and gas royalties which have accrued and are accruing to the permanent school fund by an expenditure of three thousand (\$3,000.00) dollars out of the funds already appropriated as hereinbefore stated, if said audit of said investments and securities is made in connection with the audit of oil and gas royalties accrued and accruing to said permanent school funds; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the State Auditor be and he is hereby authorized to make an audit of the investments and securities held for the benefit of the permanent school fund by the State of Texas, and any and all transactions in said fund, and to expend for that purpose three thousand (\$3,000.00) dollars of the funds hereinbefore appropriated for an audit of the oil and gas royalties accrued and accruing to the permanent school fund, the permanent University fund, and other State funds as may be necessary to make the audit herein authorized.

SANDERFORD,
BECK.

The resolution was read.

Senator Sanderford received unanimous consent to suspend the rule requiring resolutions to be referred before consideration.

The resolution was adopted.

House Bill No. 154.

The Chair laid before the Senate, as special order, the following bill:

By Mr. Daniel:

H. B. No. 154, A bill to be entitled "An Act amending Article 7071, Title 122, Chapter 2, Revised Civil Statutes of 1925, and providing for the levying of an occupation tax on petroleum oil, mineral oil, or other oils that are taken from the earth, providing the date of payment of same, and providing manner and time of reporting same to the Treasury of this State, and providing for

inspection of records kept by persons engaged in such business, etc., and declaring an emergency."

Read second time.

Committee amendment No. 1 was read.

Senator Poage sent up the following substitute for the amendment:

Amend Subsection 1 of Section 2 of H. B. No. 154 to hereafter read as follows:

Sec. 2 (1) a. There is hereby levied an occupation tax on all crude petroleum oil produced within this State of two cents per barrel of forty-two standard gallons.

b. There is hereby levied a further and additional occupation tax on all crude petroleum oil produced from any well in this State in excess of fifty barrels in any one calendar day, of one cent per barrel of forty-two standard gallons, said one cent being in addition to the tax imposed in subsection "a" above.

c. There is hereby levied a further and additional occupation tax on all crude petroleum oil produced from any well in this State in excess of the number of barrels that may be from time to time determined by the Railroad Commission of Texas as the allowable production of such well at the following rates:

On any amount of oil not exceeding 500 barrels from any one well produced in any one calendar day in excess of such allowable production, five cents per barrel.

On any amount of oil in excess of 500 barrels over such allowable production, and not exceeding 1000 barrels over such allowable production from any one well in any one day, ten cents per barrel.

On any amount of oil in excess of 1000 barrels over such allowable production from any one well in any one calendar day, twenty cents per barrel.

Each of such amounts of five, ten and twenty cents per barrel shall be in addition to the taxes imposed in subsection "a" and in subsection "b" above.

d. It is the intent of the Legislature that each of the subsections above be enacted without regard to any other section or subsection, and it is the intention of the Legislature to pass each and every one of the subsections of this section without regard to the validity or effect of any other subsection.

POAGE.

The substitute was read.

Senator Regan moved to table the substitute.

Recess.

Senator Beck moved to recess until 10 o'clock tomorrow morning.

Senator Small moved to recess until 9 o'clock tomorrow morning.

Senator Woodruff moved to recess until 8 o'clock tonight.

The motion to recess until 10 o'clock tomorrow morning was lost by the following vote:

Yeas—8.

Beck.	Murphy.
Collie.	Rawlings.
Cousins.	Russek.
Martin.	

Nays—22.

Blackert.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Sanderford.
Hornsby.	Small.
Moore.	Stone.
Neal.	Woodruff.
Oneal.	Woodul.
Pace.	Woodward.
Parr.	

Absent—Excused.

Hopkins.

The motion to recess until 9 o'clock tomorrow morning was lost by the following vote:

Yeas—11.

Peck.	Poage.
Cousins.	Rawlings.
Greer.	Russek.
Martin.	Small.
Murphy.	Stone.
Patton.	

Nays—19.

Blackert.	Pace.
Collie.	Parr.
DeBerry.	Purl.
Duggan.	Redditt.
Fellbaum.	Regan.
Holbrook.	Sanderford.
Hornsby.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Absent—Excused.

Hopkins.

The motion to recess until 8 o'clock tonight prevailed and, at 5:19 o'clock p. m., the Senate recessed.

After Recess.

The Senate met at 8 o'clock p. m., pursuant to recess, and was called to order by President Pro Tem. Walter Woodul.

House Bill No. 154.

The question recurred upon the motion to table the substitute for committee amendment No. 1 to H. B. No. 154.

Senator Regan withdrew the motion to table.

Senator Holbrook moved to table the substitute. The motion prevailed by the following vote:

Yeas—18.

Blackert.	Patton.
Collie.	Purl.
Cousins.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Holbrook.	Woodruff.
Horusby.	Woodward.
Oneal.	

Nays—3.

Moore.	Snall.
Neal.	

Absent.

Beck.	Parr.
Greer.	Russek.
Martin.	Stone.
Murphy.	

(Pairs Recorded).

Senator Pace (present) who would vote nay, with Senator Hopkins (absent) who would vote yea.

Senator Woodul (present) who would vote yea, with Senator Poage (absent) who would vote nay.

Senator Woodruff sent up the following amendment to Committee Amendment No. 1:

Amend H. B. No. 154 by striking out from line 6 to line 14 inclusive and inserting in lieu thereof the following:

"On all oil produced and sold at a price less than one dollar (\$1.00) per barrel, three cents per barrel; on

all oil produced and sold at a price in excess of one dollar (\$1.00) per barrel three per centum (3%) of the gross sale price."

WOODRUFF,
DeBERRY.

The amendment to the amendment was read.

Senator Oneal sent up the following substitute for the amendment to the amendment.

Substitute for Woodruff amendment:

Amend committee amendment to H. B. No. 154 by striking out the following:

"There is hereby levied an occupation tax on oil produced within this State of two cents per barrel of forty-two standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing one hundred per cent of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be two per cent of the market value of said oil whenever the market value thereof is in excess of one dollar per barrel of forty-two standard gallons."

and inserting in lieu thereof the following:

"There is hereby levied an occupation tax on oil produced in this State of one cent per barrel of forty-two standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be placed upon tank tables showing one hundred per cent of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be two cents per barrel whenever the market value thereof is in excess of fifty cents per barrel and not in excess of one dollar per barrel. Provided further, however, that the occupation tax herein levied on oil shall be two per cent of the market value of said oil whenever the market value thereof is in excess of one dollar per barrel of forty-two standard gallons."

ONEAL.

The substitute was read and lost by the following vote:

Yeas—7.

Collie.	Regan.
Duggan.	Small.
Murphy.	Woodward.
Oneal.	

Nays—20.

Blackert.	Parr.
Cousins.	Patton.
DeBerry.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Russek.
Hornsby.	Sanderford.
Moore.	Stone.
Neal.	Woodruff.
Pace.	Woodul.

Absent.

Beck.	Poage.
Martin.	

Absent—Excused.

Hopkins.

Senator Regan moved to table the amendment to the amendment. The motion prevailed by the following vote:

Yeas—16.

Blackert.	Rawlings.
Collie.	Redditt.
Cousins.	Regan.
Duggan.	Russek.
Fellbaum.	Small.
Murphy.	Stone.
Oneal.	Woodul.
Patton.	Woodward.

Nays—12.

Beck.	Neal.
DeBerry.	Pace.
Greer.	Parr.
Holbrook.	Purl.
Hornsby.	Sanderford.
Moore.	Woodruff.

Absent.

Martin.	Poage.
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Absent—Excused.

Hopkins.

Senator Holbrook sent up the following amendment to Committee Amendment No. 1:

Amend H. B. No. 154 by striking out the words and figures two (2)

cents and 2% wherever they appear in the bill and the caption and substituting therefor the words and figures three (3) cents.

HOLBROOK,
DeBERRY,
PARR.

Read and lost by the following vote:

Yeas—10.

Beck.	Moore.
DeBerry.	Neal.
Greer.	Parr.
Holbrook.	Sanderford.
Hornsby.	Woodruff.

Nays—16.

Blackert.	Rawlings.
Collie.	Redditt.
Duggan.	Regan.
Fellbaum.	Russek.
Murphy.	Small.
Oneal.	Stone.
Patton.	Woodul.
Purl.	Woodward.

Absent.

Cousins.	Poage.
Martin.	

(Pair Recorded).

Senator Pace (present) who would vote yea, with Senator Hopkins (absent) who would vote nay.

Senator Collie sent up the following amendment to Committee Amendment No. 1:

Amend the substitute for committee amendment No. 1, after the word "gallons" in line 2, by adding the following:

"except on all wells, producing fifteen (15) barrels, or less, per day, the taxes shall be one cent per barrel."

COLLIE.

The amendment was read.

Senator Moore moved to table the amendment to the amendment. The motion prevailed by the following vote:

Yeas—19.

Beck.	Moore.
Blackert.	Murphy.
DeBerry.	Neal.
Fellbaum.	Pace.
Greer.	Parr.
Holbrook.	Patton.
Hornsby.	Rawlings.

Russek.
Sanderford.
Stone.

Woodruff.
Woodul.

Nays—8.

Collie.
Cousins.
Duggan.
Oneal.

Purl.
Redditt.
Regan.
Small.

Absent.

Martin.

Poage.

(Pair Recorded.)

Senator Woodward (present) who would vote nay, with Senator Hopkins (absent) who would vote yea.

Senator Pace sent up the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to H. B. No. 154, page 7, line 46 by changing the words "two per cent" to "four per cent."

PACE.

Read and lost by the following vote:

Yeas—11.

DeBerry.
Fellbaum.
Greer.
Holbrook.
Hornsby.
Moore.

Pace.
Parr.
Patton.
Purl.
Woodruff.

Nays—15.

Blackert.
Collie.
Cousins.
Duggan.
Murphy.
Oneal.
Rawlings.
Redditt.

Regan.
Russek.
Sanderford.
Small.
Stone.
Woodul.
Woodward.

Absent.

Beck.
Martin.

Poage.

(Pair Recorded.)

Senator Neal (present) who would vote yea, with Senator Hopkins (absent) who would vote nay.

Senator Pace sent up the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to H. B. No. 154, page 7, line 46, by changing the words "two per cent" to "three per cent."

PACE.

Read and lost by the following vote:

Yeas—13.

Beck.
DeBerry.
Greer.
Holbrook.
Hornsby.
Moore.
Murphy.

Pace.
Parr.
Patton.
Purl.
Sanderford.
Woodruff.

Nays—14.

Blackert.
Collie.
Cousins.
Duggan.
Fellbaum.
Oneal.
Rawlings.

Redditt.
Regan.
Russek.
Small.
Stone.
Woodul.
Woodward.

Absent.

Martin.

Poage.

(Pair Recorded.)

Senator Neal (present) who would vote yea, with Senator Hopkins (absent) who would vote nay.

Senator Sanderford sent up the following amendment to Committee Amendment No. 1:

Amend H. B. No. 154 by taking out 2c where it appears and 2% where it appears, and substituting therefor 2½c and 2½%.

SANDERFORD.

Read and lost by the following vote:

Yeas—12.

Beck.
DeBerry.
Greer.
Holbrook.
Hornsby.
Moore.

Neal.
Pace.
Parr.
Purl.
Sanderford.
Woodruff.

Nays—16.

Blackert.
Collie.
Cousins.
Duggan.
Fellbaum.
Murphy.
Oneal.
Patton.

Rawlings.
Redditt.
Regan.
Russek.
Small.
Stone.
Woodul.
Woodward.

Absent.

Martin.

Poage.

Absent—Excused.

Hopkins.

Committee Amendment No. 1 was adopted.

Committee Amendment No. 2 was read.

Senator Pace sent up the following amendment to Committee Amendment No. 2:

Amend Committee Amendment No. 2, page 7, line 58, by adding after the words "monthly" the words "per well per calendar day" and by adding a new sentence to said amendment to read as follows: "The monthly report herein mentioned shall not be made on a per well per day basis on wells producing an average of less than 40 barrels per day."

PACE.

Read and adopted by the following vote:

Yeas—18.

Beck.	Neal.
Blackert.	Oneal.
DeBerry.	Pace.
Fellbaum.	Parr.
Greer.	Patton.
Holbrook.	Sanderford.
Hornsby.	Woodruff.
Moore.	Woodul.
Murphy.	Woodward.

Nays—10.

Collie.	Redditt.
Cousins.	Regan.
Duggan.	Russek.
Purl.	Small.
Rawlings.	Stone.

Absent.

Martin.	Poage.
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Absent—Excused.

Hopkins.

Committee Amendment No. 2 as amended was adopted.

Committee Amendment No. 3 was read and adopted.

Committee Amendment No. 4 was read and adopted.

Senator Woodruff sent up the following amendment:

Amend House Bill No. 154 by adding thereto a new section to be known as Section _____, to read as follows:

The State of Texas is hereby given a special and preference lien on all crude oil or petroleum produced in

this State to secure the payment of each and every of the occupation taxes provided in this bill, and such special and preference lien shall continue as to such crude oil or petroleum, as aforesaid, so long as same shall remain in the hands of the producer thereof and, for thirty days thereafter, regardless of any change in the location, condition, character, use, or ownership of said crude oil or petroleum, and shall extend to and include any and all products fabricated or manufactured from same or from any part thereof, and said crude oil or petroleum and any products thereof, shall at any time after removal from the earth and for thirty days after passing out of the hands of the original producer, be subject to attachment by the State of Texas upon affidavit of the Comptroller, Railroad Commission, or the Attorney General, or any deputy of either of said officers, that any of the tax hereinbefore provided have not been paid on said crude oil or petroleum, and such right of attachment shall exist in favor of the State without necessity of the posting of any bond by the State, and shall extend to refined products of such crude oil or petroleum, and each and every person, firm and corporation who shall at any time after any such crude oil or petroleum shall have been produced, and without the payment thereon of all of the occupation taxes herein provided, purchase, transport, refine, or assume control of any such crude oil or petroleum, or any product thereof, shall be liable for all of the occupation tax and taxes due thereon, and all such taxes shall be recovered by the State of Texas in any suit against any such person, firm and corporation.

POAGE.

The amendment was read.

Senator Russek moved to table the amendment. The motion prevailed.

Senator Woodruff sent up the following amendment:

Amend House Bill No. 154 by adding thereto another section immediately after Section 11, to be known as Section 12, re-numbering the sections accordingly:

Sec. 12. Article 7047, Title 122, Revised Civil Statutes, 1925, be amended by adding a new section

numbered and to read hereafter as follows:

Article 7047-e. In order to supplement the available school fund of the State, and to reduce the burden of ad valorem taxation on property within the State, there is hereby levied a tax on the retail sales of all cigars made of tobacco and sold or offered for sale within this State, in the sum of one (1c) cent on each five (5c) cent of retail sale price or fractional part thereof. Said tax shall be paid on account of any cigars so sold by the person, firm or corporation making the sale thereof in intra-state commerce in this State, and the payment of said tax shall be evidenced by stamps purchased from the State Treasurer and properly cancelled and securely affixed to the package or container in which said cigars are sold or offered for sale. Each container, box or package containing cigars intended for sale within this State shall bear a label accordingly affixed thereto showing the number of cigars contained therein and the price at which each cigar so contained therein is intended to be sold at retail to the consumer. Such container, box or package shall have affixed thereto, before the United States Internal Revenue Stamp affixed thereto is broken, a stamp showing that the tax herein levied has been paid. It shall be unlawful for any person, firm or corporation to open said box, container or package and sell or expose for sale any part of the contents thereof without having cancelled the tax stamp thereon.

It shall be the duty of the State Treasurer to have engraved or printed stamps of proper denominations necessary to comply with this Act and to sell the same to all merchants or dealers upon demand and payment therefor and the proceeds of his sales shall be placed to the credit of the State Available School Fund, and the State Treasurer shall be responsible for the custody and sale of such stamps and the proceeds of such sales under his official bond. Such stamps shall be of such design as the State Treasurer shall from time to time prescribe, and shall state the amount of tax, the payment of which is evidenced thereby

and shall contain the words: "Texas State Tax Paid."

WOODRUFF.

The amendment was read.

Senator Purl moved to table the amendment. The motion prevailed by the following vote:

Yeas—14.

Beck.	Moore.
Blackert.	Purl.
Collie.	Rawlings.
Cousins.	Regan.
Duggan.	Russek.
Fellbaum.	Small.
Holbrook.	Woodul.

Nays—13.

DeBerry.	Patton.
Greer.	Redditt.
Hornsby.	Sanderford.
Murphy.	Stone.
Neal.	Woodruff.
Pace.	Woodward.
Parr.	

Absent.

Martin.	Poage.
Oneal.	

Absent—Excused.

Hopkins.

Senator Holbrook sent up the following amendment:

Amend H. B. No. 154 by adding thereto another section immediately after Section 11 to be known as Section 12, to read as follows, and number the succeeding sections accordingly:

Sec. 12. That Article 7105, Chapter 4, Title 122, of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as to hereafter read as follows:

"Article 7105. Tax on intangible assets. Each incorporated railroad company, ferry company, bridge company, turnpike or toll company, oil pipeline company, and all common carriers including pipeline companies of every character whatsoever, engaged in the transportation of oil, doing business wholly or in part within this State, whether incorporated under the laws of this State, or of any other State, territory, or foreign country, and every other individual, company, corporation or association doing business of the same character in this State, in addi-

tion to the ad valorem taxes on intangible properties which are or may be imposed upon them respectively, by law, shall pay an annual tax to the State, beginning with the first day of January, of each year, on their intangible assets and property, and local taxes thereon to the counties in which its business is carried on; which additional tax shall be assessed and levied upon such intangible assets and property in the manner provided in this chapter. The county or counties in which such taxes are to be paid, and the manner of apportionment of the same, shall be determined in accordance with the provisions of this chapter."

The purpose hereof is to place all common carrier and other pipeline companies under all of the provisions of the Intangible Asset Tax laws of this State; and, for the purpose of placing under said act all taxpayers similarly situated, and to bring about a better classification and a wider distribution of the burdens of taxation, as far as this class of taxpayers is concerned.

It is the further intention hereof that this particular portion or provision of this measure shall be administered and enforced by the present State Tax Board as now constituted provided that said State Tax Board shall have full authority to promulgate all reasonable and necessary rules and regulations governing the administration hereof as may be reasonable and necessary in the carrying out of the purposes of this section; provided further that said State Tax Board may employ such auditors, counsel, and tax supervisors as may be necessary for the proper administration and enforcement of the provisions of this section or portion of this Act.

HOLBROOK.

The amendment was read.

Senator Woodruff sent up the following amendment to the amendment:

Amend pending amendment by the Senator from Galveston to H. B. No. 154, by adding after the words "railroad company," in line 2, in paragraph 3, the following:

"Dock companies, wharf companies, warehouse companies, cotton compress companies"

and by adding after the words "pipeline companies," in line 2, paragraph 4, of said amendment the following:

"Dock companies, wharf companies, warehouse companies, cotton compress companies."

WOODRUFF.

Recess.

On motion of Senator Russek, the Senate, at 10:51 o'clock p. m., recessed until 10 o'clock tomorrow morning.

APPENDIX.

Committee on Enrolled Bills.

Committee Room,
Austin, Texas, May 10, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 62 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee on Engrossed Bills.

Committee Room,
Austin, Texas, May 10, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 24 carefully examined and compared and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 65 carefully examined and compared and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, May 2, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 470 carefully examined and compared and find same correctly engrossed.

REGAN, Chairman.

Committee Reports.

Committee Room,
Austin, Texas, May 10, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Rules, to whom was referred

Simple Resolution No. 108,
Amending Senate Rule No. 15.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

HORNSBY, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 553, A bill to be entitled "An Act making an emergency appropriation of \$1500.00 for postage to be used by the State Department of Education during the remainder of the fiscal year ending August 31, 1933, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

HOLBROOK, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Federal Relations, to whom was referred S. C. R. No. 63.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

WOODUL, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 612, A bill to be entitled "An Act to provide for the propagation and raising of fresh water game fish, in privately owned ponds and lakes, or in streams connecting such privately owned ponds or lakes and not subject to overflow or directly connected with any public lake or public navigable stream, as defined by the laws of Texas; and prescribing conditions and regulations under which such privately owned game fish may be sold, and providing penalties for violations, and describing game fish; repealing all laws in con-

flict with this Act, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

REDDITT, Chairman.

Committee Room,
Austin, Texas, May 10, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

H. B. No. 303, A bill to be entitled "An Act to regulate the operation of corporations organized and incorporated under a pre-existing law in this State without capital stock and not for profit, which law has been amended or repealed or re-enacted and which were operating and carrying on in this State immediately prior to January 1, 1933, the statewide business of mutually protecting or insuring the lives of their members by assessments made upon their members."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with committee amendment attached hereto.

COLLIE, Chairman.

Committee Amendment.

An Act to regulate the operation of corporations organized and incorporated under a pre-existing law in this State without capital stock and not for profit, which law has been amended or repealed or re-enacted, and which were operating and carrying on in this State immediately prior to January 1st, 1933 the statewide business of mutually protecting or insuring the lives of their members by assessments made upon their members; and revoking, repealing, and cancelling the charters of such corporations failing to comply with this Act and forever prohibiting said corporations from doing business in this State and providing for their liquidation; and revoking, repealing, and cancelling the charters of all mutual relief or benefit associations exempt from the insurance laws of

this State under the provisions of Article 2971a, Revised Statutes of 1879, and Article 3096 and 3096w of the Revised Statutes of 1895, failing to comply with the terms of this Act, and forever prohibiting said associations from doing business in this State, and providing for the liquidation of same; and excepting certain insurance companies and associations from the provisions of this Act and providing that no other insurance laws unless expressly mentioned shall apply to the corporations operating under this Act; and providing penalties for the violations hereof; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Corporations Included. Any corporation organized and incorporated under a pre-existing law in this State without capital stock and not for profit, which law has been amended or repealed or re-enacted, and which was operating and actually carrying on in this State immediately prior to January 1, 1933, the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members may comply with the terms of this Act, subject to the subsequent provisions hereof.

Sec. 2. Application for Certificate. Any corporation entitled to and desiring to avail itself of the provisions of this Act shall within six months after the effective date of this Act make application to the Board of Insurance Commissioners for a certificate and permit to do business under the terms of said Act. Said application shall be sworn to by the president or general manager of said corporation and shall contain the following:

(1) It shall have attached as exhibits a certified copy of the charter of said corporation, certified copies of all amendments, and a copy of all by-laws of said corporation certified by the secretary or general manager of the corporation to be true and correct.

(2) The name of the corporation.

(3) The location of its principal office.

(4) The titles of the officers of the corporation and the number of directors and the names of persons who will serve as officers and directors until another election is held.

(5) It shall state the facts with reference to the corporation as set out in the preceding section, to-wit:

(a) That said corporation was organized under a pre-existing law,

(b) That said law has been amended or repealed or re-enacted.

(c) That said corporation was operating and actually carrying on in this State immediately prior to January 1, 1933, the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members.

(6) That the corporation at the time of making its application has a membership of at least five hundred members and that there is not outstanding against said corporation an unpaid final judgment of any court of competent jurisdiction more than ninety days past due.

(7) The application shall be accompanied by a financial statement on the form prescribed by the Board of Insurance Commissioners.

Sec. 3. Certificate and Permit. The Board of Insurance Commissioners may require such reasonable additional proof of the truth of the facts stated in said application as they may deem necessary, and upon consideration of said application and the proof furnished the said Board of Insurance Commissioners, if the corporation has in all things complied with the pertinent requirements and provisions of this Act, then the Board of Insurance Commissioners shall issue to the corporation a certificate and permit, the form of same to be prescribed by the said Board, authorizing and permitting the said corporation to carry on its business in the State of Texas under the provisions of this Act.

But if it appears from said application or otherwise, that the corporation has not fully complied with the pertinent requirements and provisions of this Act, then the Board of Insurance Commissioners shall refuse said application and shall refuse to issue said permit.

No such corporation shall continue to operate in this State if the Board has notified it in writing of the re-

fusal of the Board to issue it a certificate and permit. But any such corporation may within sixty days after receiving such notice file a suit in any district court of Travis County, Texas, to review the said action of the Board and may by trial de novo have all necessary relief both in law and equity to enforce its rights under this Act.

Nothing in this Act shall be construed to validate or otherwise sanction any unlawful act of any such corporation, except when such unlawful act may have been construed to be unlawful simply by reason of the fact that the law under which said corporation was created has since been repealed or amended so as to omit therefrom such corporations as are described in this Act.

Sec. 4. Deposits. Before any certificate or permit shall issue to any corporation under the terms of this Act, the corporation shall furnish the Board of Insurance Commissioners with evidence of the fact that the corporation has on deposit with some bank or trust company in this State subject to the payment of its obligations for benefits due under its policies or certificates wheresoever incurred in a sum equal to the face value of the maximum loss insured by said corporation in any individual policy issued by it. Said deposit shall not be subject to check by the corporation, but the corporation may draw the interest, if any, accruing on said deposit. Said deposit shall be held for the protection of policy holders and claimants wheresoever the rights of said policy holders and claimants may have accrued or been incurred, the purpose of said fund being to guarantee the payment of the amount owing by the corporation on any valid claim against such corporation for benefits under a policy or certificate after determination by a court of final jurisdiction wherever rendered. Said deposit shall be subject to the extraordinary writs of attachment and garnishments as provided by the laws of this State, but said writs shall not issue until final judgment has been rendered against the corporation. If said fund shall become depleted or shall become impounded by some process of a court, then the Board of Insurance Commissioners shall require the corporation to immediately restore said deposit to its original sum, and upon the failure of the corporation

to so restore said deposit within ten days after such notice, the Board of Insurance Commissioners shall call upon the Attorney General to proceed against the corporation as provided in Section 13 of this Act.

Sec. 5. Annual Statement. On or before the 1st day of March of each year each corporation availing itself of the provisions of this Act shall file with the Board of Insurance Commissioners complete and full sworn statement of its financial condition on the 31st day of December next preceding. Such statement shall plainly exhibit all real and contingent assets, and all liabilities and an account of income and disbursements to and from the mortuary fund during the year, and on blanks which the Commissioners shall furnish for the making of such annual statements. Upon examination of said report the Board of Insurance Commissioners, if such report shows that the corporation is in all things complying with this law, shall issue such corporation a certificate of authority to transact its business in this State for the year next succeeding the filing of said report.

Sec. 6. Examination. The Board of Insurance Commissioners in addition to the annual report shall once in every two years or oftener, if deemed advisable, require the books and affairs of any corporation examined and audited by an accountant designated and commissioned by the Board of Insurance Commissioners. For the purpose of any examinations the Board and the auditor shall have free access to all books, papers and accounts of the corporation, and said cost, not to exceed twenty-five (\$25.00) dollars per day for time required in making such examination and audit, and necessary expense, shall be paid by the corporation. Such corporation shall not be required to pay for more than two audits in one year, nor more than twenty-five (\$25.00) dollars per each one thousand members.

Sec. 7. (a) Officer's Bond. Such corporation shall, by resolution adopted and entered on its minute books, a copy of which properly certified by president, secretary, or general manager, shall be filed with the Board of Insurance Commissioners, designate some officer who shall be responsible in the handling of the

funds of the corporation. Such officer shall make and file a surety bond with a corporate surety company authorized to write surety bonds in this State, as surety, in the sum of not less than five thousand (\$5,000.00) dollars, payable to the Board of Insurance Commissioners for the use and benefit of said corporation, and which shall at all times be equal to the amount of the mortuary fund on hand, not to exceed twenty thousand (\$20,000) dollars, which said bond shall obligate the principal and surety to pay such pecuniary loss, not exceeding the penalty of the bond, as the corporation shall sustain of money or property by any act or acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or wilful misapplication on the part of the said officer, directly or through connivance with others, while employed as such officer or exercising powers of such office. In lieu of such bond any such officer may deposit with the Board of Insurance Commissioners cash (or securities approved by the Commission) which cash or securities shall be in the amount and subject to the same conditions as provided for said bond.

(b) Recovery on Bond. When the Board of Insurance Commissioners is informed that any officer of any such corporation has violated the terms of his said bond, the Board shall cause an audit or examination to be made, and if same reveal a violation, it shall immediately notify the company executing said bond, and if the Board deem it necessary, request the Attorney General to bring suit against such company under said bond or to enforce the liability against said cash or securities. It shall be the duty of the Attorney General to immediately file such suit in the name of the Board of Insurance Commissioners for the benefit of the corporation or its claimants. Such suit shall be brought in some court of competent jurisdiction in Travis County, Texas.

Sec. 8. Branch Offices. No corporation operating under this Act shall be permitted to operate any independent branch office, separate group, club, or class, under any other name than that of said corporation, but all of its policies shall be issued in the home office of said corpo-

ration. Nothing herein shall be construed however, as to prohibit any corporation hereunder from providing by its by-laws for the creation of separate groups, clubs, or classes, based upon such a reasonable classification as specified in the by-laws, and providing in the policies issued to the members of such groups, clubs, or classes that the benefits under said policies shall be limited to the assessments made, levied, and collected from any such particular group, club, or class, respectively. It is further provided that no stock or assets or benefits of any such particular group, club, or class, shall be pledged, sold, or transferred without the consent of three-fourths of the members of such particular group, club, or class.

Sec. 9. Benefits. The relief funds of any corporation complying with and operating under the terms of this Act shall be created by assessments levied upon the members of said corporation. Such assessments may be made periodically upon such contingencies as may be provided in the by-laws of the corporation, or at such stated periods as in the discretion of the managing officer or officers of the corporation may be deemed necessary. The benefits to be paid by such corporation shall be dependent upon the amount realized from assessments upon the membership, and the certificate shall so provide; and the certificate shall also state the maximum to be paid. Such corporation shall provide in its by-laws for the portion of its assessments to be allotted to the mortuary fund and may provide for the payment out of said mortuary fund of all attorney's fees and necessary expenses arising out of the defense, settlement or payment of contested claims.

Sec. 10. By-laws. Each corporation shall submit to the Board of Insurance Commissioners a copy of its by-laws. Such by-laws shall contain all things required by this Act and shall not contain any provision in conflict with this Act. The by-laws shall provide for the periodical meetings of the membership and for special meetings, at which meetings all members shall be permitted to vote. The Board of Insurance Commissioners shall examine such by-laws, and if the same comply

with the provisions of this Act shall signify their approval of same. If they shall not be in accordance with the provisions hereof, then the corporation shall make said by-laws conform hereto. Upon approval of the by-laws a copy duly certified to by the president or general manager and the secretary of the corporation shall be filed with the Board of Insurance Commissioners, and a copy duly certified by such Board shall be received in evidence in all the courts of this State. All policies issued by a corporation under this Act shall provide that said policy is subject to the by-laws of the corporation and all future amendments thereto. All amendments shall be filed with the Board of Insurance Commissioners in a like manner as the original by-laws. A certified copy of any changes in the by-laws of each such corporation shall be mailed to each of the stockholders and/or members at the next assessment after such change in the by-laws is made.

No such by-law or amendment shall be binding on any member, policy holder, or certificate holder in such corporation except and unless such member, policy holder, or certificate holder has been furnished a copy thereof by said corporation.

Sec. 11. Policies. No corporation hereunder shall issue any certificate or policy upon a limited payment plan, nor guarantee or promise to pay any type of endowment or annuity benefits, but shall confine its operation to the issuance of certificates looking to continuous payment premiums or assessments during the life time of the policy holder. And provided further that no such corporation shall issue any certificate or deposit agreeing to pay any benefits until a copy of such certificate or policy has been filed with the Board of Insurance Commissioners and approved by them as being in compliance with this Act.

Sec. 12. No corporation operating under this Act shall write any policy or certificate of insurance calling for a maximum benefit in excess of Five Thousand (\$5,000.00) Dollars, nor any policy or certificate of insurance unless the membership of said corporation, liable for assessments on said policy or certificate or group or class or club liable

therefor shall be sufficient in number at the assessment rate charged said class to pay 50% of the maximum benefit set forth in said policy or certificate. In the event the membership in any group, class, or club of said corporation shall fall below such number, then the corporation shall immediately notify the members of such group, class, or club, and if said membership is not increased to said number within six months thereafter, said group, class, or club shall be consolidated with some other group, class, or club, or discontinued. In the event any corporation hereunder has only one class, group, or club, then in the event the membership of said corporation shall at any time fall below 50% of the number required at the assessment rate charged to pay the maximum benefit provided by any one of its policies or certificates, the corporation shall immediately notify the members of the corporation, and unless the membership is increased to said number within six months thereafter, the Attorney General shall take steps under Section 13 of this Act to bring about the liquidation of said corporation.

Sec. 13. Insolvency. At any time the Board of Insurance Commissioners, after investigation, shall be satisfied that any corporation operating under the provisions of this Act in this State is insolvent, because the death claims due and unpaid which have matured under policies written after such corporation complied with the terms of this Act exceed the assets of the corporation and assessments or periodical payments called, or to be called, or in the process of collection, or which may reasonably be made against the members subject to assessment, or has exceeded its powers, failed to comply with any provision of the laws of this State applicable to it, or has a membership of less than five hundred paying their assessments, the Board shall report the fact to the Attorney General of this State who shall thereupon apply to any court in Travis County having jurisdiction thereof for leave to file a suit in the nature of quo warranto to forfeit the charter of such corporation or to require it to comply with the

law or to satisfy the Board as to its solvency. The court may, in its discretion, appoint agents or receivers to take charge of the effects and wind up the business of the corporation, under usages and practices of equity, and may make disposition of the business and membership of the corporation as in the discretion of the court may seem proper. No suit for receiver shall be filed against any such corporation, nor shall any receiver be appointed, except upon the application therefor by the Attorney General, and in no event shall any receiver for any such corporation be appointed until after reasonable notice has issued and a hearing had before the court.

Sec. 14. Corporations Not Complying. No person, firm, unincorporated association, or corporation shall carry on in this State the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members except under the terms of and by complying with the provisions of this Act. The charter of each corporation in this State entitled to comply with the terms of this Act which does not make application to do so within six months after the Act shall go into effect is hereby expressly repealed and revoked, and such corporation is hereafter forever prohibited from carrying on its business in this State. Each and every charter of every corporation and mutual relief or benefit association granted by the State of Texas under the authority of the Secretary of State of this State, which was or is exempt from the provisions of the insurance laws of this State by the terms of Article 2971a, Revised Statutes, 1879 (Article 3096, Revised Statutes, 1895), and Article 3096w, Revised Statutes 1895, which corporations do not make application to comply with the terms of this Act within six months after the Act takes effect, is hereby expressly repealed and revoked and said corporations are hereafter forever prohibited from carrying on any business in this State. It is the expressed intent of this section and this Act to revoke, repeal, and cancel the charter of every corporation, dormant, or otherwise, exempt from the insurance laws of this State by Article

2971a, Revised Statutes, 1879, and Article 3096 and 3096w, Revised Statutes of 1895, which fails to comply with the terms of this Act.

The charters of all corporations complying with this Act are expressly continued in force during the terms of said charter, subject to the provisions hereof. It shall be the duty of the Attorney General of this State immediately upon the expiration of six months after the effective date of this Act to take necessary action by quo warranto, application for receiver, or otherwise to enforce the forfeiture of charters as provided herein and to liquidate and close the affairs of any corporation herein referred to which has failed to comply with the terms of this Act.

Sec. 15. Penalty. Any person or persons violating any of the provisions of this law shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than five hundred (\$500.00) dollars. Any responsible officer of any corporation permitting or participating in the violation of this law by any corporation shall be deemed guilty of a violation of this Act and subject to the penalties herein.

The Attorney General shall be authorized to enforce in addition to the rights of forfeiture provided herein the penalty provided in this section against any corporation or unincorporated association which shall be guilty of the violation of any of the provisions of this law. The venue of any suit or prosecution under this section may be in Travis County, Texas.

Sec. 16. Service of Process. In all law suits brought against a corporation operating under this Act, service of citation shall be served upon the president, any active vice-president, secretary, or general manager of said corporation or upon the Chairman of the Board of Insurance Commissioners of this State within the time required for service upon individuals. The Board, when served with citation for such a corporation shall forthwith transmit the same by registered mail to the corporation at the postoffice address as designated in records on file with the Board of Insurance Commissioners.

Sec. 17. Venue. In all actions brought against corporations operat-

ing under this Act growing out of or based upon any right of claim or loss or proceeds due, arising from or predicated upon any claim for benefits under any policy or contract of insurance issued by such corporation, venue shall lie in the county where the policy holder or beneficiary instituting such suit resides or in the county of the principal office of such corporation.

Sec. 18. Fees. For filing original application for certificate to operate under this Act, each corporation shall pay a filing fee of twenty (\$20.00) dollars, to the Board of Insurance Commissioners. The Board shall also charge a fee of one (\$1.00) dollar per each certificate and permit to do business issued. For filing each annual report the Board shall charge a filing fee of ten (\$10.00) dollars. All of said fees upon receipt shall be paid into the General Fund of the State.

Sec. 19. Exceptions and Exemptions. This Act shall in no wise affect or apply to companies operating as local mutual aids, as fraternal benefit societies, reciprocal exchanges, or to foreign assessment companies operating under any other law in this State, or any other form of insurance other than those corporations carrying on in this State the statewide business of mutually protecting or insuring the lives of their members by assessments made upon their members. The insurance laws of this State shall apply to the corporations operating under this law, except in so far as they may conflict with the provisions of this Act.

Sec. 20. Constitutionality. If any section, subsection, sentence or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act, it being the intent of the Legislature that such remaining portion shall operate as a valid law.

Sec. 21. Emergency Clause. The fact that the Supreme Court of Texas and the Court of Civil Appeals for the Third Supreme Judicial District of Texas have recently upheld the legality and validity of the charters of certain corporations in this State carrying on a statewide business of mutually protecting or insuring the

lives of their members by assessments upon their members and there is no law upon the statute books regulating or controlling the operation of said corporations, and corporations similarly operating, and said corporations are without adequate supervision of the Board of Insurance Commissioners of the State of Texas, creates an emergency, and imperative public necessity exists that the constitutional rule requiring bills to be read on three separate and several days in each House shall be suspended, and that this bill be placed upon its third reading and final passage, and take effect from and after its passage, and said rule is hereby suspended, and it is so enacted.

SEVENTY-SECOND DAY—(Cont'd).

Senate Chamber,
Austin, Texas,
May 11, 1933.

The Senate met at 10 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

House Bill No. 154.

The question recurred upon the amendment (by Senator Woodruff) to the amendment (by Senator Holbrook) to H. B. No. 154.

Senator Woodruff withdrew the amendment to the amendment.

Senator Holbrook amended his amendment by striking out the word "including" in line 7 of Section 12.

House Bill No. 897.

Senator Woodul asked unanimous consent to suspend the regular order of business and take up H. B. No. 897.

Objection was heard.

Senator Woodul moved to suspend the regular order of business and take up H. B. No. 897. The motion prevailed by the following vote:

Yeas—27.

Beck.	Martin.
Blackert.	Moore.
Cousins.	Murphy.
Duggan.	Neal.
Fellbaum.	Oneal.
Greer.	Pace.
Hornsby.	Parr.